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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,604	01/23/2006	Lin Chu	MC079YP	6224
210	7590	11/27/2007	EXAMINER	
MERCK AND CO., INC P O BOX 2000 RAHWAY, NJ 07065-0907			YOUNG, SHAWQUIA	
		ART UNIT	PAPER NUMBER	
		1626		
		MAIL DATE	DELIVERY MODE	
		11/27/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/565,604	CHU ET AL.	
	Examiner Shawquia Young	Art Unit 1626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 29 October 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1,2,4,5,7,9,10,14,16,20-24,26,28,32 and 34-36 is/are pending in the application.
  - 4a) Of the above claim(s) 26,28,32 and 34-36 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2,4,5,21 and 22 is/are rejected.
- 7) Claim(s) 1,7,9,10,14,16,20,23 and 24 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/23/06</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

Claims 1, 2, 4,5,7,9,10,14,16, 20-24,26,28,32 and 34-36 are currently pending in the instant application. Applicants have cancelled claims 3, 6, 8, 11-13, 15, 17-19, 27, 29-31 and 33 in a preliminary amendment and Applicants have cancelled claim 25 and added new claim 36 in an amendment filed on October 29, 2007.

### **I. *Priority***

The instant application is a 371 of PCT/US04/23334, filed on July 20, 2004 which claims benefit of US Provisional 60/489, 693, filed on July 24, 2003.

### **II. *Information Disclosure Statement***

The information disclosure statement (IDS) submitted on January 23, 2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been fully considered by the examiner.

### **III. *Restriction/Election***

#### **A. *Election: Applicant's Response***

Applicants' election without traverse of Group XI, claims 1,2,4,5,7,9,10,14,16 and 20-24, wherein d is zero; e is 1; X is oxygen; Y is quinolinyl; and all other variables are as defined in claim 1, in the reply filed on October 29, 2007 is acknowledged.

The Examiner agrees with Applicants' election except for all other variables are as defined in claim 1. In the Restriction Requirement, the Examiner has excluded heteroaryl and heterocyclic group containing moieties from all variables other than variable Y. Therefore, the Examiner will exclude heteroaryl and heterocyclic group containing moieties from Applicants' elected invention.

Subject matter not encompassed by elected Group XI are withdrawn from further consideration pursuant to 37 CFR 1.142 (b), as being drawn to nonelected inventions.

#### IV. *Rejections*

##### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2,4,5,21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the phrase "having structural formula" renders the products indefinite as the phrase "having structural formula" can be considered open-ended language when not clearly defined and therefore is including additional subject matter in the compounds of the formula I that is not described in the instant specification and is not particularly pointed out or distinctly claimed. A claim to a chemical compound cannot be open-ended, but must be claimed with precision. This rejection can be overcome by amending the phrase "having structural formula" to read

"of structural formula" in claims 2, 4,5, 21 and 22.

**V. *Objections***

**Claim Objection-Non Elected Subject Matter**

Claims 1, 2, 4,5,7,9,10,14,16 and 20-24 are objected to as containing non-elected subject matter. To overcome this objection, Applicant should submit an amendment deleting the non-elected subject matter.

***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

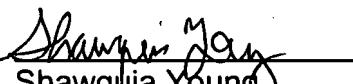
**VI. *Conclusion***

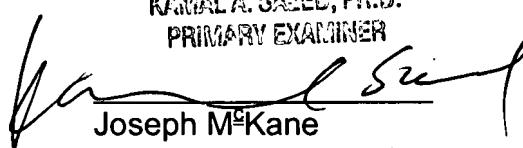
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawquia Young whose telephone number is 571-272-9043. The examiner can normally be reached on 6:30 AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph M<sup>o</sup>Kane can be reached on 571-272-0699. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Shawquia Young  
Patent Examiner  
Art Unit 1626, Group 1620  
Technology Center 1600

  
KAMALA A. GASEED, PH.D.  
PRIMARY EXAMINER  
Joseph M<sup>c</sup>Kane  
Supervisory Patent Examiner  
Art Unit 1626, Group 1620  
Technology Center 1600